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REMARKS

This Amendment is being filed in response to the Office Action dated February 25, 2005. For the following reasons, this application should be considered in condition for allowance and the case passed to issue.

The Examiners in charge of the above-identified application, Examiner Broadhead and Examiner Black, are thanked for the courtesies extended during the course of the interview to Applicant's representatives on April 27, 2005. Although no firm agreement was reached during this interview, Applicant's representatives were provided the opportunity to explain the invention and the differences between the same and the cited references. The following remarks reflect and expand upon the discussion of the invention and the art that took place during this interview.

Claims 1-14 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. This rejection has been obviated by the amendments made to Claims 1, 13, 14 and 15 to overcome the specific issue raised by the Examiner. Accordingly, the rejection of Claims 1-14 under 35 U.S.C. §112, second paragraph, should be reconsidered and withdrawn.

The indication of allowability of Claims 3, 7-12, and 16-19, if rewritten in independent form, is gratefully acknowledged. However, in light of the arguments presented at the interview and below, and the amendments made to the claims, these claims indicated as allowable have not been rewritten in independent form at this time.

Claims 1, 2, 5, 6, 13, 14, and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by Seto. Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Seto in view of Watanabe, et al. These rejections are hereby traversed and reconsideration and withdrawal thereof are respectfully requested. The following is a comparison of the present invention as currently claimed with the Seto and Watanabe, et al. references.

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The present invention, as recited, for example, in Claim 1, relates to a driving assistance system for a vehicle and comprises a state recognition device that detects a vehicle condition and a traveling environment of a subject vehicle. A future state prediction device predicts future driving conditions. The predicting includes calculating at least one of a current degree of proximity to a preceding vehicle and an extent of influence on the subject vehicle due to future changes in surrounding environment. The calculating is based on detection results of the state recognition device. The driving system also comprises a risk potential calculating device that calculates risk potential around the subject vehicle based on the future driving conditions predicted by the future state prediction device and a driver's intentions.

In order to make out a case of anticipation under 35 U.S.C. §102, the allegedly anticipating prior art must identically disclose each and every element of the claimed invention within a single prior art reference. It is respectfully submitted that the prior art identified by the Examiner fails to identically disclose each and every element of the claimed invention, and therefore the claims patentably define over the prior art.

Seto, U.S. Patent Application Publication No. 2002-0152015, relates to an adaptive cruise control system for automotive vehicles, and not a driving assistance system. In particular, Seto provides a system for automatically controlling the host vehicle speed, an inter-vehicle distance between the host vehicle and a preceding vehicle, or a relative velocity of the host vehicle to a preceding vehicle. The adaptive cruise control system controls the host vehicle's speed by only engine control in the absence of a preceding vehicle detection so that the host vehicle's speed is adjusted or brought closer to the driver-selected host vehicle speed set by the driver. In the presence of a preceding vehicle, a desired inter-vehicle distance is calculated so that a time-to-collision-contact is maintained at a predetermined constant time T_h . The time-to-collision-

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contact represents an elapsed time before the host vehicle is brought into collision-contact with the preceding vehicle or the frontally located object. The system of the embodiment executes the adaptive cruise control, and therefore the inter-vehicle distance control, by way of a combination of the engine torque control and brake control so that the host vehicle speed is brought closer to a desired host vehicle speed. The office action states that Paragraph 7 of Seto describes a future state prediction device as currently claimed, and the risk potential calculating device as currently claimed. However, such a disclosure must be identical, and it is respectfully submitted that such identical disclosure is not provided by Paragraph 7 or, indeed, in any portion of Seto.

In particular, Seto calculates a present condition using present information. For example, the time-to-collision makes a current calculation of the amount of time it would take until the vehicle would collide with a presently detected vehicle. In other words, if a time-to-collision is calculated as ten seconds, this means that there would be ten seconds before the vehicle will collide if the present condition continues. However, the vehicle speed may not continue at the same speed, so that in certain respects, this number is not correct for a future prediction. By sharp contrast, the present invention predicts a future condition employing the present information. For example, by using the time-to-collision and a time-to-headway (THW) a different calculation will be provided that describes, for example, the amount of time it will take until the host vehicle reaches the present position of the preceding vehicle. The provides a future condition prediction.

In other words, Seto does not make any prediction as to the future condition, and in fact, does not need to since the time-to-collision is maintained at a predetermined constant time. The reference does not describe, nor imply or suggest, any prediction of the future state or future driving conditions. There is no detection or calculation of an extent of influence on the host

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vehicle (or subject vehicle) due to future changes in the surrounding environment. Such a calculation is described and claimed in Claim 1, for example, to predict the future driving conditions.

Further, Seto does not provide a risk potential calculating device that calculates the risk potential around the subject vehicle based on the future driving conditions. Nor does it employ a driver's intentions in calculating the risk potential. As described in Paragraph 7 the computation system computes the desired host vehicle speed needed to bring the inter-vehicle distance closer to the desired inter-vehicle distance. This setting of a desired inter-vehicle distance and control to achieve that distance is a present state control, and has nothing to do with predicting a future state control, nor calculating a risk potential. Nor are the driver intentions considered, since it is a cruise control. Because there is no clear and unambiguous teaching of a risk potential calculating device that calculates risk potential around the subject vehicle based on future driving conditions and a driver's intentions, the assertion of anticipation of the present claims is improper. Accordingly, reconsideration and withdrawal of the rejection of Claims 1, 2, 5, 6, 13, 14 and 15 under 35 U.S.C. §102(b) should be reconsidered and withdrawn. Such action is courteously solicited.

Watanabe, U.S. Application Publication No. 2004-0085197 relates to a vehicle collision preventing apparatus, but does not overcome any of the alleged deficiencies noted with respect to the Seto reference. Accordingly, the combination of Watanabe with Seto does not make obvious Claim 4 since Claim 4 further limits and defines the independent claims for reasons previously discussed. Reconsideration and withdrawal of the rejection of Claim 4 under 35 U.S.C. §103(a) are respectfully requested.

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In light of the amendments and remarks above, this application should be considered in condition for allowance and the case passed to issue.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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